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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,768	07/06/2000	William P. Alberth JR.	CS10557	5526
7590 08/07/2008				
Ray Warren (PJB) Motorola inc Personal Communications Sector 600 North US Highway 45 Libertyville, IL 60048			EXAMINER TRAN, TUAN A	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 08/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/610,768

Applicant(s)

ALBERTH ET AL.

Examiner

TUAN A. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-10, 12-24 and 26-30 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1, 2, 5-10, 13-16, 18-24 and 26-30 is/are allowed.
6) ☒ Claim(s) 4, 12, 17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 4, 12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 12, as disclosed in the specification, the termination of sending the stored message is based on the detection of **depressing any keys on the subscriber unit** (See specification, page 9 lines 3-6) or the detection of the **user's voice signals** (See specification, figures 2-3, page 8 line 9 to page 9 line 2 and page 10 line 29 to page 11 line 2), not the audio signals. The audio signals can be recorded upon initiating a call and transmitted as stored message or in combination with a pre-stored message when the call is established and the user's voice signals are not detected. Correction is required.

Claim 17 is rejected for the same reasons cited above.

Response to Arguments

Applicant's arguments filed 04/09/2008 have been fully considered but they are not persuasive.

The applicant argued that the examiner has sought to impose a restriction into the claims (claims 4 and 12) as the examiner has misconstrued the requirements of 35 U.S.C. 112 (See Remark, page 8). The examiner respectfully disagrees with the

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applicant's argument. In this instant case, claims 4 and 12 recite limitations such as "terminating sending the stored message without resuming during the call initiated from the wireless device, when an audio signal is picked-up by a microphone of the wireless device". The termination of sending the stored message is based on the detection of **depressing any keys on the subscriber unit** (See specification, page 9 lines 3-6) or the detection of the **user's voice signals** (See specification, figures 2-3, page 8 line 9 to page 9 line 2 and page 10 line 29 to page 11 line2), and is not based on detected audio signals at all as disclosed through out the specification.

Allowable Subject Matter

2. Claims 4 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

3. Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

4. Claims 1-2, 5-10, 13-16, 18-24 and 26-30 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TUAN A. TRAN** whose telephone number is (571)272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan A Tran/
Primary Examiner, Art Unit 2618